IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

WP(C).No. 29850 of 2007(C)

PETITIONERS:

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1. D.SAJI, AGED 40 YEARS, S/O. DARMAPALAN (LATE), MAYYANATTU HOUSE, M.G.ROAD, ADOOR P.O., PATHANAMTHITTA DISTRICT.

2. K.N.NADARAJAN, KUNNATHUKALAYIL HOUSE, KODUMON P.O., ADOOR, PATHANAMTHITTA DISTRICT.

3. P.RAVEENDRAN, RESHMI BHAVANAM, MUNNALAM, ADOOR, PATHANAMTHITTA DISTRICT.

4. B.PRASAD, PUTHOORARIKATHU VEEDU, KUNNATHOOR EAST P.O., KOLLAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY SECRETARY, TAXES (A) DEPARTMENT, GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

2. THE EXCISE COMMISSIONER, THIRUVANANTHAPURAM.

3. THE ASST. EXCISE COMMISSIONER, PATHANAMTHITTA.

4. THE CIRCLE INSPECTOR OF EXCISE, ADOOR, PATHANAMTHITTA DISTRICT.

5. KUNJUPILLAI,
SUBHASH BHAVANAM, LICENSEE, TODDY SHOPS
(GROUP NO.1), ADOOR EXCISE RANGE,
PATHANAMTHITTA DISTRICT.
(THROUGH THE C.I. OF EXCISE, ADOOR).

6. SURESHKUMAR,
LICENSEE, TODDY SHOPS (GROUP NO.II),
ADOOR EXCISE RANGE, PATHANAMTHITTA DISTRICT.
(THROUGH THE C.I. OF EXCISE, ADOOR).

7. KRISHNAKUMAR,
LICENSEE, TODDY SHOPS (GROUP NO.III),
ADOOR EXCISE RANGE, PATHANAMTHITTA DISTRICT.
(THROUGH THE C.I. OF EXCISE, ADOOR).

8. ANILKUMAR,
LICENSEE, TODDY SHOPS (GROUP NO.IV),
ADOOR EXCISE RANGE, PATHANAMTHITTA DISTRICT.
(THROUGH THE C.I. OF EXCISE, ADOOR).

9. NADARAJAN,
LICENSEE, TODDY SHOPS (GROUP NO.V),
ADOOR EXCISE RANGE, PATHANAMTHITTA DISTRICT.
(THROUGH THE C.I. OF EXCISE, ADOOR).

10. THE WELFARE FUND INSPECTOR,
KERALA TODDY WORKERS WELFARE FUND BOARD,
THIRUVALLA.

BY ADV. SRI.S.A.ANAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/10/2007, ALONG WITH W.P.(C). 31236/07, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 29850/2007.

APPENDIX

PETITIONERS' EXTS:

EXT. P1 : PHOTO COPYOF THE AGREEMENT DATED 2.7.2007 EXECUTED BETWEEN THE PETITIONERS AND THE LICENSEES.

EXT. P2 : PHOTO COPYOF THE LETTER DATED 3.10.2007 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONERS.

EXT. P3 : PHOTO COPYOF THE LETTER DATED 10.9.2007 ISSUED BY THE 6TH RESPONDENT TO THE PETITIONERS.

EXT. P4 : PHOTOCOPY OF THE PETITION DATED 20.9.2007 SENT TO RESPONDENTS 1 TO 4 AND 10.

K.M.JOSEPH, J.

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WP.(C) Nos.29850 & 31236 of 2007

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Dated this the 23rd day of October, 2007

JUDGMENT

These writ petitions being connected, they are disposed of by a common judgment. In W.P.(C) 29850 of 2007 the petitioners are alleged to be leaders of the unions representing the workers of the Toddy Shops in Adoor Excise Range. They submit that respondents 1 to 4 have no authority to direct the closure of the shops on the basis of the oral direction without giving any written orders. W.P.(C) 31236 of 2007 is filed by respondents 5 to 9 in W.P.(C) 29850 of 2007, who are representing the licensees of toddy shops in Group Nos.I to V in Adoor Excise Range. Apparently the complaint appears to be common, namely, the official respondents have directed the closure of the shops without passing any written order.

2. I heard learned Government Pleader also. Learned Government Pleader on instructions in W.P.(C) 29850 of 2007 contends that the closure is necessitated on account of the fact that the licensees were not complying with Rule 4(2) of the Kerala Abkari

Shops Disposal Rules, 2002, that is they were not engaging the redeployed workers.

3. Counsel for the petitioners would contend that they are prepared to engage the redeployed workers in terms of the conditions in the license and in terms of the Rules. It is also pointed out that there is no authority to order closure without even passing any written order.

The writ petitions are disposed of as follows:

In W.P.(C) 31236 of 2007 there will be a direction commanding respondents 1 to 4 to permit the petitioners therein to conduct Toddy Shop Nos.27, 30, 32, 34, 33 and 36 of Adoor Excise Range in terms of the licence issued to those toddy shops to the petitioners. This is subject to the condition that the said petitioners will engage the redeployed workers in terms of the licence conditions and in terms of Rule 4(2). Should there be any violation, it will be open to respondents 1 to 4 to issue written orders in accordance with law.

(K.M. JOSEPH, JUDGE)

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